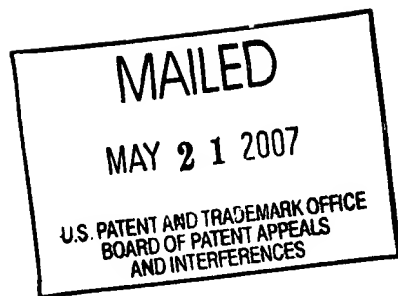


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte HIROYUKI IKEDA

Application No. 09/821,636

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on April 24, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

An examination of the Image File Wrapper (IFW) reveals that appellant filed a Reply Brief on January 30, 2007. On page 18 of the Reply Brief, appellant included a section requesting an oral hearing in connection with the appeal.

37 CFR § 41.47 states, in part:

(b) If appellant desires an oral hearing, appellant must file, as a separate paper captioned "REQUEST FOR ORAL HEARING," a written request for such hearing accompanied

by the fee set forth in § 41.20(b)(3) within two months from the date of the examiner's answer or supplemental

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examiner's answer [emphasis added].

Since the appellant's request for oral hearing was not filed in a separate paper as required by 37 CFR § 41.47, the appellant's request for an oral hearing cannot be granted.

If the appellant still desires an oral hearing, a petition under 37 CFR § 1.183 must be filed within two weeks of the mailing date of this notice. Such a petition must include:

- (1) a request to suspend the separate paper requirement of 37 CFR § 41.47(b);
- (2) a showing of facts to establish that an extraordinary situation exists and that justice requires the separate paper requirement of 37 CFR § 41.47(b) be suspended or waived; and
- (3) be accompanied by the petition fee set forth in 37 CFR § 1.17(f).

This two week time period for filing a petition under 37 CFR § 1.183 is not extendable under 37 CFR § 1.136(a). The failure to timely file a petition under 37 CFR § 1.183 will result in the appeal being decided without an oral hearing (i.e., on brief).¹


¹ If the appellant decides not to file a petition under 37 CFR § 1.183, the Board of Patent Appeals and Interferences would appreciate written notice thereof so that a decision on the appeal can be expedited.

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Accordingly, it is

ORDERED that the application is being electronically returned to the Examiner to have appellant properly file the Request for Oral Hearing, and for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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